



United States Office
Of Government Ethics

Report Number 09-004

Highlights

Model Practices

- Ethics duties are included in the Designated Agency Ethics Official's (DAEO) and Alternate DAEO's position descriptions and performance evaluations.
- A self-assessment instrument was used to evaluate the ethics advice provided by ONDCP ethics officials.

OGE Suggests

- ONDCP take more timely, aggressive steps to obtain necessary information from financial disclosure report filers to ensure timely certification of the reports.

If you have comments or would like to discuss this
report, please contact

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Ethics Program Review Office of National Drug Control Policy Executive Office of the President

January 2009 Report

Executive Summary

The United States Office of Government Ethics (OGE) has completed its review of the ethics program at the Office of National Drug Control Policy (ONDCP), Executive Office of the President. The purpose of a review is to identify and report on the strengths and weaknesses of a program by evaluating: (1) agency compliance with ethics requirements found in relevant laws, regulations, and policies, and (2) ethics-related systems, processes, and procedures in place for administering the program.

OGE's review identified two model practices that ONDCP has implemented. First, the ethics duties of ONDCP's Designated Agency Ethics Official (DAEO) and Alternate DAEO (ADAEO) are included in their position descriptions and performance evaluations. Second, ONDCP used a self-assessment instrument to evaluate agency employees' level of satisfaction with the ethics advice provided by the ethics officials. The results of the self-assessment revealed ONDCP employees have a high level of satisfaction concerning the timeliness and accuracy of the advice and the courtesy of the ethics officials who provided the advice to them.

Although there was no written annual training plan in place for 2007, the ADAEO created one for calendar year 2008. Written annual training plans are required to be developed each year in accordance with 5 CFR § 2638.706.

In addition, there were no written procedures for the financial disclosure systems in place at the time of the OGE's review. The ADAEO subsequently created written procedures pursuant to Section 402 (d)(1) of the Ethics in Government Act of 1978, as amended.

OGE suggests that ONDCP take more timely, aggressive steps to obtain necessary information from financial disclosure report filers to ensure timely certification of the reports.

This report has been sent to ONDCP's DAEO.



**United States Office
Of Government Ethics**

Report Number 09-004

Ethics Program Review

Office of National Drug Control Policy Executive Office of the President

January 2009 Report

Introduction

OGE MISSION

The United States Office of Government Ethics (OGE) provides leadership for the purpose of promoting an ethical workforce, preventing conflicts of interest, and supporting good governance initiatives.

PURPOSE OF A REVIEW

The purpose of a review is to identify and report on the strengths and weaknesses of an ethics program by evaluating: (1) agency compliance with ethics requirements found in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures in place for administering the program.

REVIEW AUTHORITY AND SCOPE

OGE has the authority to evaluate the effectiveness of executive agency ethics programs. *See* Title IV of the Ethics in Government Act of 1978, as amended (the Ethics in Government Act), and 5 CFR part 2638. OGE's review of the Office of National Drug Control Policy (ONDCP), Executive Office of the President focused on the elements listed below.

- Leadership involvement in the ethics program
- Program structure
- Financial disclosure systems
- Ethics training
- Ethics counseling
- Special Government employees
- Enforcement of ethics laws and regulations
- Travel payments from non-Federal sources

Ethics Program Review: ONDCP

OGE's review focused on the ethics program at ONDCP headquarters and the on-site fieldwork was conducted in June 2008.

Program Elements

This report consists of descriptions, analyses, and conclusions regarding each program element reviewed.

LEADERSHIP

Commitment and action by agency leadership is the keystone for ensuring the integrity of an agency's ethical culture and for fostering public confidence in the decision-making processes of Government. Notably, during the on-site fieldwork portion of OGE's review, ONDCP's Director met with the review team. During the meeting, the Director underscored his commitment to high ethical standards and welcomed any suggestions to enhance ONDCP's ethics program.

PROGRAM STRUCTURE

ONDCP's ethics program is administered within the ONDCP Office of Legal Counsel. The General Counsel serves as the Designated Agency Ethics Official (DAEO). The Assistant General Counsel serves as the Alternate DAEO (ADAEO) and is responsible for the day to day administration of the ethics program. The Deputy General Counsel is the Designated Deputy DAEO and is primarily responsible for the administration of the process for accepting gifts. OGE found that ethics duties were included in the DAEO and ADAEO's position descriptions. The DAEO's annual performance appraisal also includes an evaluation of the execution of his ethics duties.

FINANCIAL DISCLOSURE SYSTEMS

Title I of the Ethics in Government Act requires that agencies ensure confidence in the integrity of the Federal Government by demonstrating that officials are able to carry out their duties without compromising the public trust. High-level Federal officials demonstrate that they are able to carry out their duties without compromising the public trust by disclosing publicly their personal financial interests (SF 278). Title I also authorizes OGE to establish a confidential financial disclosure system for less senior executive branch personnel in certain designated positions to facilitate internal agency conflict of interest review (OGE Form 450).

Financial disclosure serves to prevent conflicts of interest and to identify potential conflicts by providing for a systematic review of the financial interests of both current and prospective officers and employees. The financial disclosure reports also assist agencies in administering their ethics programs in providing counseling to employees.

See 5 CFR § 2634.104(b).

Ethics Program Review: ONDCP

General Comments

ONDCP ethics officials conduct a thorough review of the public and confidential financial disclosure reports for conflicts of interest. However, OGE's review team found that some reports were not timely certified or were not certified at all because filers did not provide follow-up information to the reviewers in a timely manner. Timely certification of the reports allows ethics officials to more readily identify and resolve real or potential conflicts of interest, protecting both employees and the Government. OGE suggests more timely, aggressive steps be taken to obtain necessary information from filers to ensure timely certification of the reports.

At the time of the review ONDCP did not have written procedures for the administration of its public and confidential financial disclosure systems as required by Section 402 (d)(1) of the Ethics in Government Act. Written procedures ensure consistency in the collection, review, and certification of financial disclosure reports. Additionally, written procedures assist reviewers in ensuring that information provided on the reports is appropriately analyzed and are essential for a good succession plan.

The review team advised the ADAEO of the requirement to have written procedures for financial disclosure. The ADAEO created comprehensive written procedures for the administration of its public and confidential financial disclosure systems.

Public Financial Disclosure System (SF 278)

The administration of ONDCP's public financial disclosure system is primarily the responsibility of the ADAEO. The ADAEO reviews and certifies all reports, excluding her own. Her report is reviewed and certified by the DAEO. The ADAEO uses the filers' position descriptions to conduct a substantive review of the reports for conflicts of interest. Additionally she is routinely informed by the DAEO of current agency initiatives that may affect filers' financial holdings.

To evaluate the filing, review, and certification of public reports at ONDCP, OGE examined 25 of the 33 public reports required to be filed by ONDCP employees in 2007. The following is a summary of OGE's examination of the 25 reports.

Type of Report

- 21 annual reports
- 4 new entrant reports

25 total

Filing Timeliness

- 23 reports were filed timely
- 2 reports were filed late

25 total

Ethics Program Review: ONDCP

Review/Certification Timeliness

- 23 reports were reviewed and certified timely.
- 2 reports were certified late because the filers did not provide follow-up information to the reviewers in a timely manner.

25 total

Quality of Review

Written comments on reports, documentation in files, and conversations with ethics officials indicated that the financial disclosure reports underwent a thorough review by ONDCP officials. OGE identified only minor technical errors in some of the reports such as over-reporting of assets and personal information.

Confidential Financial Disclosure System (OGE Form 450)

The administration of the confidential financial disclosure system is primarily the responsibility of the ADAEO. The ADAEO uses the filers' position descriptions to conduct a substantive review of the reports for conflicts of interest. Additionally, she is informed by the DAEO of current agency initiatives that may affect filers' financial holdings.

To evaluate the confidential financial disclosure system at ONDCP, OGE examined 19 of the 22 confidential reports required to be filed by ONDCP's employees in 2007. The following is a summary of OGE's examination of the 19 reports.

Type of Report

- 17 annual reports
- 2 new entrants

19 total

Filing Timeliness

- 18 reports were filed timely.
- 1 report was filed late.

19 total

Review/Certification Timeliness

- 15 reports were reviewed and certified timely.
- 1 report was certified late.
- 3 reports were not certified.

19 total

Ethics Program Review: ONDCP

Quality of Review

OGE found annotations on the reports that reflected that a thorough review had been performed for conflict of interest. However, OGE's review team found that some reports were not timely certified or were not certified at all because the filers did not provide follow-up information to the reviewers in a timely manner.

ETHICS TRAINING

An ethics education and training program is essential to raising awareness among employees about ethics laws and rules and informing them that an agency ethics official is available to provide ethics counseling. Each agency's ethics training program must include, at least, an initial ethics orientation for all employees and annual ethics training for covered employees.

At the time of OGE's review ONDCP did not have an annual training plan that documents and describes the topics to be covered in the upcoming year. The OGE review team provided the ethics officials with a sample of an annual ethics training plan. Subsequently, the ADAEO created an annual training plan for calendar year 2008. Annual training plans are required to be developed each year in accordance with 5 CFR § 2638.706.

Initial Ethics Orientation

Within 90 days from the time an employee begins work for an agency, the agency must provide the employee with initial ethics orientation. Initial ethics orientation must include:

- the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) and any agency supplemental standards;
- the names, titles, office addresses, and phone numbers of the DAEO and other ethics officials; and
- at least one hour of official duty time to review the items described above. *See 5 CFR § 2638.703.*

The initial ethics orientation at ONDCP is provided by the ADAEO. The ADAEO provides employees with a PowerPoint presentation covering the Standards. Additionally, the ADAEO provides written materials to employees and is available to answer questions after the initial ethics orientation session. The written materials consist of a copy of the Standards along with the names, titles, and office addresses and telephone numbers of the ethics officials.

Initial ethics orientation is usually conducted quarterly. The completion of the initial ethics orientation is tracked by attendance rosters. According to the ADAEO, all new employees received the initial ethics orientation in 2007.

Ethics Program Review: ONDCP

Annual Ethics Training

Public financial disclosure filers are required to receive verbal annual ethics training each year. *See* 5 CFR § 2638.704(a). Verbal training includes training prepared by a qualified instructor and presented by telecommunications, computer, audiotape, or videotape. *See* 5 CFR § 2638.704(c)(2). Other covered employees (e.g., confidential filers) are required to receive verbal annual ethics training at least once every three years and may receive written annual training in the intervening years. *See* 5 CFR § 2638.705(c). The content requirements for both public filers and other covered employees are the same. Agencies are encouraged to vary the content of annual training from year to year but the training must include, at least, a review of:

- the 14 Principles of Ethical Conduct (Principles);
- the Standards;
- any agency supplemental standards;
- the Federal conflict of interest statutes; and
- the names, titles, office addresses, and phone numbers of the DAEO and other ethics officials. *See* 5 CFR § 2638.704(b).

Annual training at ONDCP is provided by the ADAEO. In 2007, the ADAEO provided employees with a PowerPoint presentation covering the Principles, the Standards, gifts, and the Hatch Act. The ADAEO also utilized hypothetical case studies and games to engage the participants during training.

Public and confidential filers receive annual ethics training simultaneously. The completion of the annual ethics training is tracked by attendance rosters.

In 2007, all 3 PAS employees and all of the required non-PAS public and confidential filers received annual training. The Director received one-on-one individual training from the DAEO. ONDCP also makes annual ethics training available to non-covered employees and contractors.

ETHICS COUNSELING

The DAEO is required to ensure that a counseling program for agency employees concerning ethics and standards of conduct matters, including post-employment matters, is developed and conducted. *See* 5 CFR § 2638.203. The DAEO may delegate to one or more deputy ethics officials the responsibility for developing and conducting the counseling program. *See* 5 CFR § 2638.204.

OGE's assessment of an ethics counseling program focuses on five factors: (1) accuracy, (2) timeliness, (3) transparency, (4) accountability, and (5) consistency. To determine whether an agency's counseling program successfully addresses these factors, OGE reviews and assesses the program's processes and written procedures. Further, OGE reviews selected samples of counseling to assess whether processes and written procedures are effective.

Ethics Program Review: ONDCP

OGE reviewed a sample of 58 pieces of memorialized counseling, rendered by ONDCP ethics officials. The counseling involved widely attended gatherings, speaking engagements, gifts, conflicts, impartiality, seeking employment, misuse of position, outside activities, and post-employment. OGE found the counseling it reviewed to be accurate and consistent with applicable statutes and regulations.

The ADAEO provides post-employment advice to all departing employees. Additionally, in 2007 ONDCP used a self-assessment instrument to evaluate employees' level of satisfaction with the ethics advice provided by the ethics officials. The results revealed that ONDCP employees have high levels of satisfaction concerning the timeliness and accuracy of the advice and the courtesy the ethics officials who provided the advice.

ENFORCEMENT

The DAEO is to ensure that (1) information developed by internal audit and review staff, the Office of the Inspector General, or other audit groups is reviewed to determine whether such information discloses a need for revising agency standards of conduct or for taking prompt corrective action to remedy actual or potential conflict of interest situations and (2) the services of the agency's Office of the Inspector General are utilized when appropriate, including the referral of matters to and acceptance of matters from that Office. *See* 5 CFR § 2638.203(b)(11) and (12).

According to ethics officials, there were no potential violations of the criminal conflict of interest statutes referred to the Department of Justice from January 2007 through June 2008. There were also no identified violations of the Standards during that time. If an ethics violation were to be alleged, the Chief of Staff would appoint a fact-finder to investigate the matter. If necessary, the DAEO would make any required referrals to the Department of Justice. The ADAEO would notify OGE of the referral.

SPECIAL GOVERNMENT EMPLOYEES

ONDCP had an advisory committee, the Advisory Commission on Drug-Free Communities (the Commission) which ceased to exist at the end of fiscal year 2007. The members of the Commission were considered special Government employees. The Commission members met once in 2007. ONDCP ethics officials provided ethics training to the members at the beginning of the meeting.

ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

An employee may accept payment of travel expenses from non-Federal sources on behalf of the employee's agency for official travel to a meeting or similar function when specifically authorized to do so by the agency. Agencies must submit semiannual reports to OGE of travel payments from non-Federal sources in excess of \$250. *See* 31 U.S.C. § 1353.

ONDCP has a policy of not accepting payments under 31 U.S.C. § 1353 and as such did not accept any travel payments from non-Federal sources in 2007.

Ethics Program Review: ONDCP

Summary

OGE's review identified two model practices that ONDCP has implemented. First, the ethics duties of ONDCP's DAEO and ADAEO are included in their position descriptions and performance evaluations. Second, ONDCP used a self-assessment instrument to evaluate agency employees' level of satisfaction with the ethics advice provided by the ethics officials.

Suggestion

OGE suggests that ONDCP take more timely, aggressive steps to obtain necessary information from financial disclosure report filers to ensure timely certification of the reports.

OGE stands ready to assist ONDCP in implementing the suggestion, as well as other program initiatives that ONDCP may choose to undertake.

If you have comments or would like to discuss the report, please contact Dale Christopher, Associate Director, Program Review Division, at 202-482-9224. You may also contact Joseph E. Gangloff, OGE's Deputy Director, at 202-482-9220.